

MEDICAL BOARD STAFF REPORT

REPORT DATE: August 16, 2012
ATTENTION: Midwifery Advisory Committee
SUBJECT: Revisions to Proposed Regulation - Physician Supervision Requirement
1379.23 in Article 3.5 in Chapter 4 of Division 13, Title 16, California Code of Regulations
REFERRED BY: Curtis Worden, Chief of Licensing

REQUESTED ACTION:

Revisions to the regulations pertaining to physician supervision of licensed midwives, Section 1379.23, of Title 16 of the California Code of Regulations are respectfully submitted to the Midwifery Advisory Council (MAC) for review and approval. The revised proposal is based on collaborative information provided by members of the public and the midwifery community during the March 29, 2012 Interested Parties Workshop. Recommendations made at the Interested Parties meeting were reviewed by Legal Counsel and other Medical Board staff and the proposed regulation was revised accordingly. The proposed Physician Supervision Requirement regulation dated April 5, 2012, is attached. Upon approval, staff requests that the MAC recommend to the Board, that this matter be set for hearing.

BACKGROUND:

Business and Professions Code 2507(f) requires the Board to adopt regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery by July 1, 2003. Due to the inability to reach consensus on the supervision issue, the Board identified separately this requirement in 2006, by adopting Standards of Care for Midwifery (16 CCR, 1379.19). Three previous attempts to resolve the physician supervision issue via legislation and/or regulation have been unsuccessful.

The proposed regulation sets forth a collaborative approach to the issue of physician supervision by providing that the supervision requirement in law is met if the licensee established a collaborative relationship with a physician who agrees to provide guidance and instructions in the specified circumstances.

The proposed regulation also provides that a business relationship is not created solely by a physician providing consultative services, or by accepting a referral from a licensed midwife.

MEDICAL BOARD OF CALIFORNIA
Physician Supervision of Licensed Midwives
Specific Language of Proposed Changes
Draft—4/5/12

Adopt new section 1379.23 in Article 3.5 in Chapter 4 of Division 13, Title 16 Cal. Code Regs. to read as follows:

1379.23. Physician Supervision Requirement.

(a) The requirement for physician supervision contained in Section 2507 of the Code is deemed to have been met if the licensed midwife has established a collaborative relationship with one or more physicians, who meet the requirements of section 1379.22, for the purpose of providing guidance and instructions regarding the care of women and/or newborns or consulting with the licensed midwife after the care of a patient has been transferred to the physician.

(b) A physician and surgeon shall not be deemed to have established a business relationship or relationship of agency, employment, partnership, or joint venture with a licensed midwife solely by consulting with or accepting a referral from the licensed midwife.

NOTE: Authority cited: Sections 2018 and 2507(f), Business and Professions Code.
Reference: Section 2507, Business and Professions Code.